

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jesse Spieler-Jones	Team: Team # 5	CCRB Case #: 201104579	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 04/10/2011 1:00 AM	Location of Incident: intersection of 102nd Street and 2nd Avenue, at § 87(2)(b) and inside the 23 PCT stationhouse	Precinct: 23	18 Mo. SOL 10/10/2012	EO SOL 10/10/2012	
Date/Time CV Reported Mon, 04/11/2011 7:09 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 04/11/2011 7:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christopher Derco	14560	946917	023 PCT
2. POM Kyle Crevatas	24662	947732	023 PCT
3. POM Christopher Reilly	17570	947387	023 PCT
4. POM Daniel Callinan	17721	945542	023 PCT
5. An officer			023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Theohari Koumniotes	15817	947138	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Callinan	Abuse: At the intersection of 102nd Street and 1st Avenue in Manhattan, PO Daniel Callinan stopped § 87(2)(b)	
B.POM Daniel Callinan	Abuse: At the intersection of 102nd Street and 1st Avenue in Manhattan, PO Daniel Callinan threatened § 87(2)(b) with the use of force.	
C.POM Daniel Callinan	Force: In front of § 87(2)(b) in Manhattan and inside the 23rd Precinct stationhouse, PO Daniel Callinan used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.POM Kyle Crevatas	Force: In front of § 87(2)(b) in Manhattan, PO Kyle Crevatas used physical force against § 87(2)(b)	
E.POM Daniel Callinan	Force: In front of § 87(2)(b) in Manhattan, PO Daniel Callinan struck § 87(2)(b) with a nightstick.	
F.POM Daniel Callinan	Off. Language: In front of § 87(2)(b) in Manhattan and inside the 23rd Precinct stationhouse, PO Daniel Callinan made remarks to § 87(2)(b) based upon race.	
G. An officer	Force: In front of § 87(2)(b) in Manhattan, an officer pointed his gun at § 87(2)(b)	
H. An officer	Off. Language: In front of § 87(2)(b) in Manhattan, an officer made remarks to § 87(2)(b) based upon race.	
I.POM Daniel Callinan	Abuse: In front of § 87(2)(b) in Manhattan, PO Daniel Callinan damaged § 87(2)(b)'s property.	
J.POM Daniel Callinan	Discourtesy: In front of § 87(2)(b) in Manhattan, PO Daniel Callinan spoke obscenely and/or rudely to § 87(2)(b)	
K.POM Christopher Reilly	Abuse: In front of § 87(2)(b) in Manhattan, PO Christopher Reilly stopped § 87(2)(b)	
L.POM Christopher Derco	Abuse: In front of § 87(2)(b) in Manhattan, PO Christopher Derco stopped § 87(2)(b)	
M.POM Christopher Derco	Abuse: In front of § 87(2)(b) in Manhattan, PO Christopher Derco frisked § 87(2)(b)	
N.POM Kyle Crevatas	Abuse: Inside the 23rd Precinct stationhouse, PO Kyle Crevatas did not obtain medical treatment for § 87(2)(b)	

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB call processing system on April 11, 2011 (encl. 7A-E). § 87(2)(b) filed duplicate complaint 201104789 with the CCRB via telephone on April 15, 2011 (encl. 7A-E). On April 10, 2011, at about 1:00 a.m., in the general vicinity of 1952 2<sup>nd</sup> Avenue in Manhattan, PO Daniel Callinan and PO Kyle Crevatas of the 23<sup>rd</sup> Precinct attempted to investigate a local violation and became involved in a foot pursuit with § 87(2)(b) who fled to 1952 2<sup>nd</sup> Avenue in Manhattan, where § 87(2)(b) was standing outside. The following allegations resulted:

- **Allegation A – Abuse of Authority:** At the intersection of 102nd Street and 1st Avenue in Manhattan, PO Daniel Callinan stopped § 87(2)(b)
- **Allegation B – Abuse of Authority:** At the intersection of 102nd Street and 1st Avenue in Manhattan and en route to the 23rd Precinct stationhouse, PO Daniel Callinan threatened § 87(2)(b) with the use of force.  
§ 87(2)(g)
- **Allegation C – Force:** In front of § 87(2)(b) in Manhattan and inside the 23rd Precinct stationhouse, PO Daniel Callinan used physical force against § 87(2)(b)
- **Allegation D – Force:** In front of § 87(2)(b) in Manhattan, PO Kyle Crevatas used physical force against § 87(2)(b)
- **Allegation E – Force:** In front of § 87(2)(b) in Manhattan, PO Daniel Callinan struck § 87(2)(b) with a nightstick
- **Allegation F – Offensive Language:** In front of § 87(2)(b) in Manhattan and inside the 23rd Precinct stationhouse, PO Daniel Callinan made remarks to § 87(2)(b) based upon race.
- **Allegation G – Force:** In front of § 87(2)(b) in Manhattan, an officer pointed his gun at § 87(2)(b)
- **Allegation H – Offensive Language:** In front of § 87(2)(b) in Manhattan, an officer made remarks to § 87(2)(b) based upon race.
- **Allegation I – Abuse of Authority:** In front of § 87(2)(b) in Manhattan, PO Daniel Callinan damaged § 87(2)(b)'s property.
- **Allegation J – Discourtesy:** In front of § 87(2)(b) in Manhattan, PO Daniel Callinan spoke obscenely and/or rudely to § 87(2)(b)  
§ 87(2)(g)
- **Allegation K – Abuse of Authority:** In front of § 87(2)(b) in Manhattan, PO Christopher Reilly stopped § 87(2)(b)
- **Allegation L – Abuse of Authority:** In front of § 87(2)(b) in Manhattan, PO Christopher Derco stopped § 87(2)(b)
- **Allegation M – Abuse of Authority:** In front of § 87(2)(b) in Manhattan, PO Christopher Derco frisked § 87(2)(b)

§ 87(2)(g)

- **Allegation N – Abuse of Authority:** Inside the 23rd Precinct stationhouse, PO Kyle Crevatas did not obtain medical treatment for § 87(2)(b) § 87(2)(g)

## Results of Investigation

### Civilian Statements

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b) is a 5'9", 144 lb. black male with brown eyes and brown hair who was § 87(2)(b) years old § 87(2)(b)

### Arrest Photo

§ 87(2)(b) has an inch-long dark mark on his right cheek. It is unclear if it is a bruise or a scar. There are no other apparent markings or injuries (encl. 10A).

### Statements to Medical Personnel

On § 87(2)(b), § 87(2)(b) told medical personnel at the § 87(2)(b) in the Bronx that he was assaulted by police officers and hit on the left side of his torso. He complained of pain in his ribs, arms and fingers and indicated that his collar bone has become larger since this altercation. He also stated that he had not taken any pain medication. He did not complain of any other injuries. On § 87(2)(b), at § 87(2)(b), he stated that he was beaten by police officers on April 10, 2011 and kicked in the back of the head. At Manhattan Detention Center on May 15, 2011, he denied that he had ever been physically assaulted and stated that his last ER visit was in 1990. He denied having chest pain (encl. 10B-F).

### Statement

§ 87(2)(b) made statements pertaining to this incident in filing his complaint with the CCRB via telephone on April 15, 2011(encl. 7A-E) and in person at the CCRB on April 25, 2011 (encl. 11A-H). § 87(2)(g)

On April 10, 2011, at approximately 12:30 a.m., § 87(2)(b) was walking in the vicinity of the intersection of East 102<sup>nd</sup> Street and 2<sup>nd</sup> Avenue in Manhattan while carrying a mixture of lemonade and fruit punch in a large transparent plastic cup when a marked patrol car put its lights on and pulled up behind him. The officer in the driver's seat – identified by the CCRB as PO Daniel Callinan – was a uniformed white male, 6'0" to 6'1" tall, and in his early twenties. The passenger officer – identified by the CCRB as PO Kyle Crevatas – was a uniformed Hispanic male with black hair who was 5'6"-5'7" tall. (Although § 87(2)(b) initially identified the driver as PO Crevatas and the passenger as PO Callinan, the investigation determined that the opposite was true.)

PO Callinan, whose driver's side window was facing § 87(2)(b) asked § 87(2)(b) what was in his cup and § 87(2)(b) replied that it was juice. PO Callinan asserted that the beverage was alcoholic, told § 87(2)(b) to "come here" and then exited the RMP with his firearm drawn and told § 87(2)(b) not to move or he would shoot. Because § 87(2)(b) was afraid that PO Callinan would shoot him, he fled toward the intersection of East 101<sup>st</sup> Street and 2<sup>nd</sup> Avenue. PO Callinan gave chase and began to repeatedly say, "I am going to shoot you." PO Crevatas entered the driver's seat of the RMP and began to pursue § 87(2)(b)

As § 87(2)(b) reached the front of § 87(2)(b) § 87(2)(b) he saw § 87(2)(b) standing outside and a female, identified by the CCRB as § 87(2)(b) standing inside. § 87(2)(b) then felt a knee being driven into his back and began to fall forward. At the same time, § 87(2)(b) § 87(2)(b)'s Blackberry phone fell to the ground. While he was still falling, PO Callinan punched

him in the head before grabbing his left arm. In filing his complaint, § 87(2)(b) did not say he was punched or kneed before he was on the ground, and did not say this during his in person statement until he was questioned in detail. § 87(2)(b)'s knees hit the ground first, followed by his stomach. PO Callinan began calling § 87(2)(b) a “nigger,” a “porch monkey,” “shine” and “shadow,” as well as other racial epithets that he could not recall. PO Callinan struck him in the head with a nightstick, handcuffed him and punched him in the ribs multiple times.

Although § 87(2)(b) stated that he sustained scrapes to his face when PO Crevatas pulled on his handcuffs in an attempt to pick him up, he indicated during his telephone statement that it was PO Callinan who did this. While he initially stated that PO Crevatas also put a gun to his head, punched him in his ribs and stated that he should have shot him, he subsequently stated that PO Crevatas did not punch him and that it was a third officer, described by § 87(2)(b) as a bald Hispanic male, who put a gun to his head and said, “Fucking nigger. I should have shot you.” § 87(2)(b) then stated that he did not know where PO Crevatas was at this time and that he did not see him until he reentered the RMP. In filing his complaint, § 87(2)(b) stated that although he was punched in the head while on the ground, he did not see who did this. He did not say that he was punched at any other time.

PO Callinan then picked up § 87(2)(b)'s Blackberry and threw it to the ground, breaking it. Upon picking § 87(2)(b) up off the ground, PO Callinan continued to use the above racial epithets and told § 87(2)(b) to “shut the fuck up.” At this time, § 87(2)(b) saw two uniformed officers, described only as males in their mid- to late-twenties, punch § 87(2)(b) three or four times in his right side and kick him twice in his left side. § 87(2)(b) could not specify which officer did what and did not see how § 87(2)(b) came to be on the ground. PO Callinan told the other officers to release § 87(2)(b) which they did. § 87(2)(b) was then escorted to the marked patrol car.

At the patrol car, PO Callinan pushed § 87(2)(b) against the hood of the RMP before using a “little extra knee” against § 87(2)(b)'s lower back to move him into the RMP. PO Callinan then entered the driver's seat and PO Crevatas entered the passenger seat, and the officers transported § 87(2)(b) to the 23<sup>rd</sup> Precinct stationhouse. PO Callinan told § 87(2)(b) that the officers should take him somewhere and “whoop his ass” some more and PO Crevatas told § 87(2)(b) that he should “bust” him in the face.

Upon arriving at the stationhouse, PO Callinan and PO Crevatas processed § 87(2)(b) at the desk and then took him to a private bathroom. There were no other officers or civilians present. PO Crevatas held § 87(2)(b)'s handcuffs while PO Callinan punched him three times in the ribs while using the same racial epithets that he had earlier. The officers then put § 87(2)(b) in a holding cell. While inside the holding cell, after PO Callinan had left the holding cell area, § 87(2)(b) asked PO Crevatas for medical attention. PO Crevatas ignored § 87(2)(b) and told him to “shut the fuck up.” An individual named § 87(2)(b) whose contact information § 87(2)(b) does not have access to, was in a holding cell at the time. § 87(2)(b) was charged with marijuana possession. He denied having marijuana on him at the time of the incident. § 87(2)(b) received medical attention at the § 87(2)(b) in the Bronx. § 87(2)(b), he was seen at § 87(2)(b) in Manhattan. He stated that he sustained bruised ribs, a bruised spinal cord, a “shifted” collar bone, cuts and scrapes on his face and head and knees, and nerve damage in his wrists and fingers.

**Victim:** § 87(2)(b)

- § 87(2)(b) is a 5'5", 155 lb. black male with black hair and brown eyes who was § 87(2)(b) years old § 87(2)(b)

### Statement

§ 87(2)(b) made statements pertaining to this incident in filing his complaint with the CCRB on April 11, 2010 (encl. 7A-E), over the telephone to the CCRB on April 21, 2011 (encl. 8A) and in person at the CCRB on April 25, 2011 (encl. 9A-H). § 87(2)(g)

On April 10, 2011, at approximately 12:45 a.m., § 87(2)(b) who lives at § 87(2)(b) § 87(2)(b) in Manhattan, walked outside his building to smoke a cigarette. He was wearing a red jacket at the time. Approximately five minutes later, § 87(2)(b)'s friend, § 87(2)(b) came running around the corner from the direction of East 101<sup>st</sup> Street. As § 87(2)(b) ran toward § 87(2)(b) § 87(2)(b) saw three officers – described by § 87(2)(b) as a uniformed Hispanic male who was 6'0" and heavyset with black hair who he believed was named "Creuatas", a uniformed Hispanic male who was about 5'7"-5'8", and a uniformed bald black male – pursuing § 87(2)(b) on foot.

As § 87(2)(b) approached § 87(2)(b) in front of the building, § 87(2)(b) put his hands up in the air. As the 6'0" officer – identified by the CCRB as PO Daniel Callinan – caught up with § 87(2)(b) he grabbed his shoulder and pulled him to the ground, stomach facing down. PO Callinan then handcuffed § 87(2)(b). § 87(2)(b) stepped away from § 87(2)(b). At approximately this time, another marked police vehicle pulled up and two officers – a 5'8" uniformed Hispanic male who later identified himself as "Derco" and a 5'6" uniformed Hispanic male who later identified himself as "Reilly" (identified by the CCRB as PO Christopher Derco and PO Christopher Reilly, respectively) exited. § 87(2)(b) did not see any other officers on scene.

PO Reilly and PO Derco approached § 87(2)(b) and ordered him to get on the ground. § 87(2)(b) § 87(2)(b) denied that he had done anything wrong. PO Reilly then grabbed § 87(2)(b) by his jacket, pulled him downward and then handcuffed him with the assistance of PO Derco. § 87(2)(b) hit his head in the process, sustaining a lump as well as minor scrapes on his knee and elbow. (He did not subsequently seek medical attention.) At about this time, he saw his friend, § 87(2)(b) entering the lobby of the building from the elevator. Approximately five minutes later, § 87(2)(b)'s mother, § 87(2)(b) his second cousin, § 87(2)(b) and an acquaintance, § 87(2)(b) came outside. § 87(2)(b) asked PO Reilly and PO Derco for their shield numbers. The officers provided their names to § 87(2)(b) and spelled them for him. Although they did not verbally provide their shield numbers, they allowed § 87(2)(b) to examine the name plate portions of their uniforms and also allowed § 87(2)(b) to examine and copy down their shield numbers. Though § 87(2)(b) noticed that his mobile phone was broken, he did not know how this occurred. § 87(2)(b) was placed into a car and transported from the scene. § 87(2)(b) was then released.

§ 87(2)(b) never saw PO Callinan use any force against § 87(2)(b) and did not say that any other officer used any force against § 87(2)(b). He did not see any officer with his firearm drawn. He did not hear officers use any profanity toward § 87(2)(b). He never heard any officers using racial epithets or racially charged language. He confirmed that he was within earshot of § 87(2)(b) throughout the incident. When asked about any additional statements that officers made to § 87(2)(b) § 87(2)(b) added that he had heard, "Why did you run, motherfucker?" while § 87(2)(b) was being brought to the ground. He could not tell which officer said this.

### Witness: § 87(2)(b)

- § 87(2)(b) who is a friend of § 87(2)(b)'s, was § 87(2)(b) old at the time of the incident.

### Testimony

§ 87(2)(b) provided a statement regarding this incident over the telephone on June 27, 2011. She refused to provide a sworn statement (encl. 12C).

At about 1:00 a.m. on April 10, 2012, § 87(2)(b) who had previously consumed one to two cups of hard liquor, was about to exit § 87(2)(b) in Manhattan with two friends who she refused to identify when she saw § 87(2)(b) outside. She saw an officer she could not describe pull § 87(2)(b) downward. Two officers § 87(2)(b) could not describe then pulled § 87(2)(b) to the ground from behind. § 87(2)(b) was not sure if § 87(2)(b) struck the ground or merely laid down as he was being pulled downward. One officer who § 87(2)(b) could not describe took his gun out, pointed it at § 87(2)(b)'s head and told him to "please stop moving." § 87(2)(b) initially stated that § 87(2)(b) was not resisting the officers' attempts to handcuff him; she subsequently stated that he was moving his arms at the time. § 87(2)(b) went back upstairs and returned with § 87(2)(b)'s mother, § 87(2)(b). § 87(2)(b) then left the scene without having interacted with any police officers. § 87(2)(b) did not see any force being used and did not hear officers use any racial slurs.

**Witness:** § 87(2)(b)

- § 87(2)(b) who is § 87(2)(b)'s step-grandmother, was § 87(2)(b) old at the time of the incident.

**Statement**

§ 87(2)(b) provided a statement regarding this incident over the telephone on July 21, 2011 (encl. 12D). § 87(2)(b) initially stated that she was outside when the police first arrived. She then stated that, after she had entered § 87(2)(b) § 87(2)(b) she saw § 87(2)(b) running toward the front entrance while calling to § 87(2)(b) who was standing outside. § 87(2)(b) began to focus on § 87(2)(b) and did not see what happened with § 87(2)(b). After § 87(2)(b) was brought to the ground, § 87(2)(b) went upstairs to retrieve § 87(2)(b) and then returned with § 87(2)(b) and § 87(2)(b)'s two siblings, § 87(2)(b) and § 87(2)(b). By this time, § 87(2)(b) was standing up again. Although § 87(2)(b) heard racial epithets being directed at § 87(2)(b) she could not specify what words were being used or which officer was using them and denied hearing any racial epithets directed at § 87(2)(b).

**Witness:** § 87(2)(b)

- § 87(2)(b) is § 87(2)(b)'s mother.

**Statement**

§ 87(2)(b) provided a statement regarding this incident over the telephone on July 21, 2011. § 87(2)(b) subsequently did not cooperate with the investigation's attempts to obtain a sworn statement from her (encl. 12A-B).

§ 87(2)(b) first became aware of the incident when § 87(2)(b)'s friend, § 87(2)(b) knocked on her door and told her to come outside. When § 87(2)(b) exited her building, § 87(2)(b) was already handcuffed and standing up. When § 87(2)(b) and § 87(2)(b) began to ask the officers who was going to pay for § 87(2)(b)'s jacket, a uniformed white male with faded short blond hair said, "This shit could have been old" and that he was "not paying for shit." § 87(2)(b) and § 87(2)(b) all asked the four officers standing closest to § 87(2)(b) for their badge numbers. The officers did not verbally provide them, although two officers explicitly invited her to copy this information down. § 87(2)(b) did not see § 87(2)(b) on scene until a police van moved, revealing a marked RMP with § 87(2)(b) already handcuffed inside.

**Witness:** § 87(2)(b)

- § 87(2)(b) is a resident of § 87(2)(b) § 87(2)(b)

### **Statement**

§ 87(2)(b) provided the following telephone statement on July 29, 2011 (encl. 12E). § 87(2)(b) was inside her apartment on the § 87(2)(b) Floor of § 87(2)(b) § 87(2)(b) in Manhattan when she looked out her window, which faces the front of the building, and saw numerous police officers who she could not describe. Though she heard cursing, she could not recall what was said besides the word “fuck” and was unable to discern who was saying it. § 87(2)(b) was being escorted toward a police car at the time. She did not see any physical altercations or hear any derogatory racial language. § 87(2)(b) initially stated that she did not recall anyone requesting any officers’ names or shield numbers, then stated that § 87(2)(b) was doing this and that officers were providing this information “with attitude,” and finally stated that she did not know if this was the case. She only observed the incident for about five minutes.

### **Attempts to Contact Civilians**

Although the investigation determined that § 87(2)(b) and § 87(2)(b) may have witnessed the incident after § 87(2)(b) and § 87(2)(b) had both already been handcuffed, multiple attempts to contact these individuals were not successful.

Regarding possible witnesses to the portion of the incident that occurred inside the 23<sup>rd</sup> Precinct holding cell area, there is no § 87(2)(b) noted on either the Prisoner Holding Pen Roster or the Command Log, and a Lexis-Nexis search for this individual was not productive. Although an analysis of NYPD documentation indicated that § 87(2)(b) and § 87(2)(b) may have been in the holding cell area at approximately the same time as § 87(2)(b) reviews of NYPD documentation and searches of the BADS and Lexis-Nexis databases did not yield usable contact information for these individuals.

### **NYPD Statements:**

#### **Subject Officer: PO DANIEL CALLINAN**

- *PO Daniel Callinan is a 6’0”, 200 lb. white male with brown hair and green eyes. He was § 87(2)(b) old at the time of the incident.*
- *PO Callinan worked in uniform from 7:00 p.m. on April 9, 2011 to 3:35 a.m. on April 10, 2011 in a marked RMP with PO Kyle Crevatas.*

#### **Memo Book**

At 11:30 p.m. on May 9<sup>th</sup>, 2011, PO Crevatas had one individual under arrest in front of § 87(2)(b) § 87(2)(b) (encl. 13A-C).

### **Statement**

PO Callinan was interviewed at the CCRB on May 16, 2012 (encl. 14A). On May 9<sup>th</sup>, 2011, shortly before 11:30 p.m., PO Callinan and PO Crevatas were driving eastbound on 102<sup>nd</sup> Street between 2<sup>nd</sup> Avenue and 1<sup>st</sup> Avenue in Manhattan when PO Callinan saw § 87(2)(b) walking on the sidewalk on the left side of the street (which was PO Callinan’s side of the vehicle, as he was the operator). § 87(2)(b) was holding a clear plastic container that was about six inches tall and filled with liquid, the color of which PO Callinan could not recall. PO Callinan suspected that this drink was a “nutcracker” – i.e., an illicit mixed alcoholic beverage commonly purchased in bodegas in the area – based solely on its appearance. PO Callinan informed PO Crevatas that § 87(2)(b) was drinking and then pulled his vehicle over about 10 feet away from § 87(2)(b) before exiting his vehicle. His intention was to stop § 87(2)(b) and issue a summons if appropriate. As PO Callinan was exiting his vehicle, § 87(2)(b) looked at him, threw the plastic



cup to the ground and began to run southbound on 1<sup>st</sup> Avenue. Neither officer said anything to § 87(2)(b) before this occurred.

PO Callinan initially did not intend to pursue § 87(2)(b) merely to investigate the open container. However, as § 87(2)(b) reached the southwest corner of East 102<sup>nd</sup> Street and 1<sup>st</sup> Avenue, PO Callinan saw him drop an object that was about the size of a fist. When the object hit the ground, it made a loud “smacking” sound, though PO Callinan could not tell if the sound was metallic or not. He could not discern what the object was and could not describe it further. § 87(2)(b) immediately stopped, picked the object up, put it into his waistband and then continued to run. PO Crevatas said, “I think that was a gun.” At the time, crime conditions in this area included shootings and general gang activity.

PO Callinan immediately began to pursue § 87(2)(b) on foot. PO Crevatas moved to the driver’s seat of the RMP and began to pursue § 87(2)(b) in the RMP. As § 87(2)(b) continued to flee, PO Crevatas attempted to pull the RMP over near § 87(2)(b). PO Crevatas exited his RMP with his gun drawn, but, realizing that he had stopped too soon, reentered his vehicle immediately. He never pointed his gun at § 87(2)(b) and there was no other time at which PO Callinan saw PO Crevatas with his firearm drawn. PO Callinan never saw any other officer with his gun drawn at any time.

As § 87(2)(b) ran toward the entrance to the walkway leading to § 87(2)(b) § 87(2)(b), PO Callinan saw a dark-skinned individual wearing a red winter jacket standing in front of the building (identified by the CCRB as § 87(2)(b)). Although § 87(2)(b) was yelling for § 87(2)(b) to open the door, § 87(2)(b) backed away and did not assist him. When § 87(2)(b) reached the front of the walkway, he jumped and threw an object (indiscernible at that time) onto an awning.

Prior to reaching the front of § 87(2)(b) § 87(2)(b), PO Callinan was unaware of any officers besides himself and PO Crevatas being present or involved in the pursuit. § 87(2)(b) was the only civilian he was pursuing and he did not see any other civilian running on the sidewalk. Though PO Callinan could not recall where § 87(2)(b)’s hands were when he saw him, he never saw § 87(2)(b) making any furtive movements.

PO Callinan, who was the first officer to make contact with § 87(2)(b), grabbed § 87(2)(b)’s arms and shoulders and pulled him to the ground. He could not recall if § 87(2)(b) attempted to pull away. Either § 87(2)(b)’s chest area or face made contact with the ground first. PO Crevatas, who was the only other officer to make contact with § 87(2)(b), reached § 87(2)(b) within seconds. § 87(2)(b) put his arms underneath him and both officers struggled for about 20 seconds to handcuff him.

At this time, PO Callinan looked to his left and saw that PO Derco and PO Reilly were handcuffing § 87(2)(b), who was on the ground. PO Callinan then returned his attention to § 87(2)(b). Once § 87(2)(b) was handcuffed and § 87(2)(b) was standing up, PO Callinan told PO Derco and PO Reilly that § 87(2)(b) had not been involved in “our situation.” PO Crevatas climbed onto a van and retrieved marijuana from the awning. PO Callinan could not recall who placed § 87(2)(b) into the RMP. Though additional officers arrived on scene, PO Callinan could not recall who they were or what commands they were from.

PO Callinan never drew his firearm. He neither did nor saw any officer do any of the following during the incident: point their gun at anyone; threaten to shoot anyone; strike § 87(2)(b); use a nightstick to strike anyone; drag § 87(2)(b)’s face along the ground; push § 87(2)(b) against a police vehicle; refuse to provide their shield numbers or names; throw anyone’s phone to the ground or otherwise break it; threaten to “bust” § 87(2)(b) in the face or “whoop [his] ass”; call § 87(2)(b) a “nigger,” a “porch monkey,” “shine” or “shadow”; use any profanity. He did not hear anyone request any officer’s name or shield number. Officers ultimately found a broken phone belonging to § 87(2)(b) at the location. PO Callinan could not recall where or when the

phone was found.

PO Callinan and PO Crevatas transported § 87(2)(b) to the stationhouse, where he was processed at the desk and taken directly to the holding cells. § 87(2)(b) never requested medical attention. Officers never struck § 87(2)(b) inside the stationhouse. PO Callinan never noticed any injuries on § 87(2)(b).

After reviewing segments of surveillance video “2 Front Entry SB0100” during his interview, PO Callinan identified the person entering the walkway of § 87(2)(b) at 0103 hrs 58 seconds as § 87(2)(b) and identified the officer behind § 87(2)(b) as himself. At 0104 hrs 5 seconds, he identified PO Crevatas as the officer entering the walkway. He could not differentiate among the officers in the background. After being shown a second camera angle, file “2 Front Entry SB0100,” PO Callinan identified himself as the officer grabbing § 87(2)(b) on his wrist and shoulder at 0104 hrs 3 seconds.

**Subject Officer: PO KYLE CREVATAS**

- *PO Crevatas is a 5’8”, 185 lb. Hispanic male with brown hair and brown eyes. He was § 87(2)(b) years old at the time of the incident.*
- *PO Crevatas worked in uniform from 7:00 p.m. on April 9, 2011 to 3:35 a.m. on April 10, 2011 in a marked RMP with PO Kyle Callinan.*

**Memo Book**

On April 10, 2011, at 1:05 a.m., a male was stopped in front of § 87(2)(b). At 1:13 a.m., a male was under arrest, PO Crevatas was en route to the 23<sup>rd</sup> Precinct and Sgt. Jervis was notified. At 1:20 a.m., PO Crevatas arrived at the 23<sup>rd</sup> Precinct for arrest processing (encl. 15A-C).

**OLBS and Criminal Court Complaint**

PO Crevatas saw § 87(2)(b) holding six bags of marijuana in public view and recovered it from the awning of § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b) (encl. 15D-16C).

**Statement**

PO Crevatas was interviewed at the CCRB on May 16, 2012 (encl. 17A-C). § 87(2)(g)

Regarding factors that led him to believe § 87(2)(b) was initially holding an open container, PO Crevatas also stated that the color of the liquid in the container was bright red, which is typical of “nutcrackers,” and that, after § 87(2)(b) threw the container to the ground, PO Crevatas smelled alcohol. When PO Callinan first exited his vehicle, he verbally attempted to get § 87(2)(b)'s attention, though PO Crevatas could not recall more specifics. No other conversation took place at this time. The object that § 87(2)(b) dropped was black. PO Crevatas did not recall either officer telling the other that the object was a gun, though it was his understanding that this was their mutual suspicion. When PO Crevatas pulled the RMP over while pursuing § 87(2)(b) he exited with his gun drawn. However, he lost sight of § 87(2)(b) at this time. No other civilians were involved in this pursuit.

PO Crevatas exited his vehicle with his firearm again drawn, but holstered it once § 87(2)(b) was on the ground. He could not recall if he assisted in taking § 87(2)(b) to the ground or if § 87(2)(b) was already on the ground when he reached him. He did assist PO Callinan in handcuffing § 87(2)(b). PO Derco and PO Reilly did not arrive until after § 87(2)(b) was on the ground. PO Crevatas did not see specifically what either of these officers did and did not see them interact

with § 87(2)(b) § 87(2)(b) never did anything that caused PO Crevatas concern for his safety. PO Crevatas escorted § 87(2)(b) into the RMP. § 87(2)(b) was tugging away from PO Crevatas at this time. PO Crevatas pulled § 87(2)(b) into the RMP but did not use any additional force to do so. PO Crevatas did not recall any other officers interacting with § 87(2)(b).

Back at the stationhouse, § 87(2)(b) told PO Crevatas that the black object he had dropped had been his mobile phone. PO Crevatas denied that § 87(2)(b) requested medical attention. He denied that officers struck § 87(2)(b) inside the stationhouse.

**Subject Officer: PO CHRISTOPHER DERCO**

- *PO Derco is a 5'7", 185 lb. white male with brown hair and green eyes. He was § 87(2)(b) old at the time of the incident.*
- *PO Derco worked in uniform from 7:00 p.m. on April 9, 2011 to 3:35 a.m. on April 10, 2011 in a marked van with PO Christopher Reilly and PO Theohari Koumniotes.*

**Memo Book**

At 1:10 a.m., PO Derco "observed two male blacks fleeing from other officers (male black with black jacket, male black red jacket). Assisted in pursuit. Two males stopped at § 87(2)(b) § 87(2)(b). Both males did resist and were placed in handcuffs using minimal force. Upon further investigation, male black jacket § 87(2)(b) was found to not be in possession of any contraband and a Stop, Question and Frisk Report was generated. Male red jacket was found to be in possession of drugs. Both did make furtive movements upon being stopped. Male black jacket became compliant while red jacket continued to be uncooperative" (encl. 18A-C).

**Statement**

PO Derco was interviewed at the CCRB on February 1, 2012 (18A2-18D2). On April 10, 2011, at approximately 1:10 a.m., PO Derco was on patrol with PO Reilly in a marked van on 1<sup>st</sup> Avenue in the general vicinity of § 87(2)(b) § 87(2)(b) in Manhattan when the officers saw PO Crevatas's marked RMP drive by with its lights on toward 2<sup>nd</sup> Avenue. He did not recall being partnered with any other officers. PO Derco then saw two dark-skinned males running approximately parallel to the RMP. One male was wearing a dark jacket and the other was wearing a red jacket. In retrospect, PO Derco acknowledged that he was unable to discern whether the dark jacket was plainclothes or a police uniform. He was unable to discern the two males' physical features beyond the above. (PO Derco noted that he later learned that PO Crevatas was driving the RMP and that PO Callinan was running on foot.) As PO Derco followed, PO Crevatas briefly stopped his RMP and opened his door. PO Derco heard someone say, "Gun!" but could not tell who was saying this. As the two males on foot turned left onto 2<sup>nd</sup> Avenue, PO Derco temporarily lost sight of them.

PO Derco initially stated that, as he turned the corner, he saw PO Crevatas and PO Callinan running toward two males who were in turn running into § 87(2)(b) § 87(2)(b). However, later in his interview, he stated that PO Crevatas pulled up in front of the building and exited his vehicle a second before PO Derco exited his, and that at this time PO Callinan had already reached the individual in the red jacket and was attempting to handcuff him. He also stated that, at this time, the male in the dark jacket was in front of the building facing the officers. (As PO Derco specified that it was the male in the red jacket who was ultimately arrested, the CCRB identified this individual as § 87(2)(b) and the civilian in the dark jacket as § 87(2)(b).

As PO Derco approached § 87(2)(b) he said, "Stop! Show me your hands!" PO Derco did this because he believed that § 87(2)(b) was one of the males who had been running. PO Derco acknowledged that, in retrospect, for all he knows, PO Callinan and PO Crevatas were only pursuing one person, and the second male he saw running may have been PO Callinan. § 87(2)(b)

§ 87(2)(b) replied that he had not done anything. As PO Derco reached toward § 87(2)(b) § 87(2)(b) pulled away toward the door of the building. Both PO Derco and PO Reilly then moved § 87(2)(b) to the ground and handcuffed him. § 87(2)(b) resisted being pulled to the ground by pulling away and yelling profanities. PO Derco did not see § 87(2)(b)'s head strike the ground. As PO Derco lifted § 87(2)(b) off the ground, PO Callinan told PO Derco that § 87(2)(b) had not been involved in the incident, at which point PO Derco released § 87(2)(b).

Although additional officers arrived on scene, PO Derco could not recall who they ####. After § 87(2)(b) was released, several of his family members exited the building and requested both PO Derco and PO Reilly's shield numbers. The officers provided this information both verbally and by indicating their shields. PO Derco never became aware of a phone being broken. After leaving the scene, he resumed patrol and did not see § 87(2)(b) again.

After providing the above account, PO Derco was presented with the Stop, Question and Frisk Report documenting the stop of § 87(2)(b) and asked to account for the factors listed on it. PO Derco stated that "furtive movements" referred to § 87(2)(b) turning toward PO Derco as PO Derco was exiting his vehicle, reaching toward his waistband and beginning to move toward the entrance of § 87(2)(b) § 87(2)(b). PO Derco did not see any bulge or other evidence of a weapon. He stated that "refusal to comply with directions" referred to § 87(2)(b) refusing to comply with orders for him to show his hands and rather continuing to reach toward his waistband, place his hands in his pockets and move toward the door. He stated that the "reported offense of type under investigation" referred to the fact that he suspected § 87(2)(b) of weapons possession and that there are often arrests in this area for weapons. Regarding "time/day/week corresponding to criminal activity," PO Derco acknowledged that he could not explain this. PO Derco also stated that he frisked § 87(2)(b) because § 87(2)(b) had been reaching for his waistband. Besides those factors mentioned above, there were no additional factors that led him to believe that § 87(2)(b) had a weapon on him.

After providing the above information, PO Derco was shown segments of the surveillance video labeled "2 Front Entry SB@0100." After viewing 0103 hrs 42 seconds through 0104 hrs 16 seconds, PO Derco acknowledged that the person in front of the building was wearing a red jacket and that this individual was not ultimately arrested. Upon seeing § 87(2)(b) entering the walkway of § 87(2)(b) § 87(2)(b) PO Derco stated that he believed § 87(2)(b) had some amount of red in his jacket. He identified the officer running immediately behind § 87(2)(b) as PO Callinan. He identified the van in frame at 0104 hrs 1second as his van. At 0104 hrs 7 seconds, PO Derco stated that, although he could not differentiate between the three officers approaching the walkway, two are himself and PO Reilly. PO Derco was then shown a portion of "3 Front Entry NB@0100." When asked to specify the point in the video at which § 87(2)(b) made a furtive movement, PO Derco stated that this occurs at approximately 0104 hrs 7 seconds. He stated that, at this time, he was issuing § 87(2)(b) a verbal order to show his hands, which are depicted in the video as being in the vicinity of § 87(2)(b)'s sides. He stated that, from 0104 hrs 7 seconds to 0104 hrs 18 seconds, § 87(2)(b) can be seen turning away. He stated that, as he moved § 87(2)(b) to the ground, § 87(2)(b) kept his arms stiff.

**Subject Officer: PO CHRISTOPHER REILLY**

- *PO Reilly is a 5'7", 160 lb. white male with brown hair and hazel eyes. He was § 87(2)(b) old at the time of the incident.*
- *PO Reilly had the same assignment as PO Derco.*

**Memo Book**

At 1:10 a.m., PO Reilly "observed two male blacks flee from other officers, male black jacket, male black red jacket. Assisted in pursuit of males in front of § 87(2)(b) § 87(2)(b). Both

males did resist and were placed in handcuffs using minimal force. Upon further investigation, § 87(2)(b) was found to not be in possession of contraband and a Stop, Question and Frisk Report was prepared for CPW and CPCS based on defendant displaying furtive movements” (encl. 19A-D).

#### **Stop, Question and Frisk Report (encl. 20A-D)**

Factors contributing to the stop of § 87(2)(b) were “furtive movements,” “other – defendant was running,” “area has high incidence of reported offense” and “time of day/week corresponding to criminal activity.” Additional factors leading to his frisk were “refusal to comply with officers’ directions” and “furtive movements.” His demeanor was “aggressive” and “uncompliant” and he stated, “I don’t have nothing.” He was suspected of criminal possession of a controlled substance and criminal possession of a weapon.

#### **Statement**

PO Reilly was interviewed at the CCRB on February 1, 2012 (encl. 21A-D). § 87(2)(g)

PO Reilly did not recall being partnered with anyone besides PO Derco. When PO Reilly initially observed the pursuit of § 87(2)(b) he saw a uniformed officer (wearing a standard navy blue police uniform) on foot who appeared to be pursuing two males, one of whom was wearing a red jacket or sweatshirt and the other of whom was wearing black. PO Reilly and PO Derco’s decision to follow § 87(2)(b) was based solely on their visual observation of the pursuit. As PO Reilly and PO Derco followed in their vehicle, PO Reilly saw PO Crevatas stop his RMP, step out and yell, “Gun!” PO Crevatas did not specify who he was referring to. § 87(2)(b) then turned a corner onto 2<sup>nd</sup> Avenue and disappeared from view. The RMP pursuing him disappeared around the corner as well. As PO Reilly’s vehicle turned the corner, he saw that § 87(2)(b) was already on the ground. PO Callinan and PO Crevatas were attempting to handcuff § 87(2)(b) who was resisting by rolling around and flailing his arms. PO Reilly did not have a clear view of what was happening because PO Callinan and PO Crevatas were standing over § 87(2)(b). PO Reilly then saw § 87(2)(b) standing in front of the building. § 87(2)(b) was facing away from the building and was standing about two feet away from PO Callinan and PO Crevatas. § 87(2)(b) was not attempting to interfere with the arrest. However, PO Reilly suspected that § 87(2)(b) was one of the two males he had seen running. Additionally, he was concerned that § 87(2)(b) was standing so close to PO Callinan and PO Crevatas, who had their backs to him. PO Reilly was also concerned because PO Crevatas’s mention of a gun led him to believe that there may be a gun or a weapon involved somehow. However, he was not at the time certain of whether or not § 87(2)(b) had even been involved in the incident.

As PO Reilly approached § 87(2)(b) PO Reilly noticed that he looked “disheveled,” which he clarified to mean that PO Reilly was “not sure” if § 87(2)(b) seemed nervous and that he did not seem “calm or collected.” PO Reilly’s intention was to place § 87(2)(b) on the ground as a safety precaution. PO Reilly told § 87(2)(b) to get on the ground, but § 87(2)(b) did not comply. PO Reilly initially stated that § 87(2)(b) did not do anything with his body or move his arms at this time. However, when asked if he saw any furtive movements, PO Reilly stated that § 87(2)(b) was turning his body and moving side to side, though he acknowledged that § 87(2)(b) may have just been observing the situation.

PO Reilly was the first officer to make contact with § 87(2)(b). He was not sure where he touched him. PO Reilly and PO Derco pulled § 87(2)(b) downward in a gentle manner to the ground. § 87(2)(b) did not resist the officers’ efforts and his head did not strike the ground. After § 87(2)(b) was handcuffed, PO Callinan informed them that § 87(2)(b) had not been “involved.” § 87(2)(b) requested PO Reilly and PO Derco’s shield numbers and they provided

them. PO Reilly could not recall if officers made any attempt to find the second male who had been fleeing from PO Callinan. Although PO Reilly recalled that § 87(2)(b) was frisked, he did not recall who frisked him. He did not recall there being any evidence that § 87(2)(b) had a gun beyond the fact that PO Crevatas had said “gun” without specifying who might be in possession of one. PO Reilly did not see any injuries on § 87(2)(b). After § 87(2)(b) was taken to the stationhouse, PO Reilly did not see him again. He did not have any recollection of any additional officers arriving on scene.

After providing the above information, PO Reilly was presented with the handwritten Stop, Question and Frisk Report and confirmed that he had prepared it. PO Reilly could not recall the specifics of any “furtive movements” that contributed to the decision to stop § 87(2)(b), though he stated that he believed that § 87(2)(b) had been running. The “furtive movements” that contributed to the decision to frisk § 87(2)(b) were § 87(2)(b) moving side to side while standing close to other officers during a weapons situation. “Refusal to comply with directions” referred to § 87(2)(b) not moving to the ground when ordered to do so. The “type of incident under investigation” was weapons possession and CompStat statistics, which he reviews regularly, show that this location has a “high incidence” of this offense. That the time corresponding to criminal activity was “night time.” He could not explain why “criminal possession of a controlled substance” was on the Stop, Question and Frisk Report as a crime that § 87(2)(b) was suspected of.

PO Reilly was then presented video file “2 Front Entry SB@0100.” PO Reilly acknowledged that he could not see any furtive movements on the video prior to the stop of § 87(2)(b). At 0104 hrs 08 seconds, PO Reilly identified himself as the officer who is touching § 87(2)(b). PO Reilly confirmed that the person in the video who is dressed in red and standing in front of the building is § 87(2)(b) who was ultimately released.

**Subject Officer: PO THEOHARI KOUMNIOTES**

- *PO Koumniotes is a 5’11”, 230 lb. white male with brown hair and blue eyes. He was § 87(2)(b) years old at the time of the incident.*
- *PO Koumniotes had the same assignment as PO Derco.*

**Memo Book**

At an unspecified time, PO Koumniotes observed two black males fleeing from police (“1 male black jacket, 1 male red jacket”). He assisted in the pursuit. Two males were stopped at § 87(2)(b) § 87(2)(b). Both males resisted using minimal force. Upon investigation, § 87(2)(b) was found to not be in possession of contraband (encl. 22A-C).

**Statement**

PO Koumniotes was interviewed at the CCRB on July 5, 2012 (encl. 23A-C). § 87(2)(g)

PO Koumniotes was sitting in the middle bench of the back of PO Reilly and PO Derco’s van when he first noticed the pursuit of § 87(2)(b) who he recalled was a black male, about 6’0” tall. § 87(2)(b) was being chased by PO Callinan. Although PO Koumniotes did not recall what § 87(2)(b) was wearing, he was able to see PO Callinan clearly enough that he recognized him by name. He stated that, as PO Callinan was clearly dressed in uniform, he was “pretty sure” PO Reilly and PO Derco knew that PO Callinan was a police officer. PO Callinan and § 87(2)(b) were the only individuals who were running. When PO Derco pulled their vehicle over in front of § 87(2)(b) § 87(2)(b) PO Derco and PO Reilly exited and began to approach § 87(2)(b). PO Koumniotes exited the passenger side 10 seconds later and lost sight of § 87(2)(b). By the time

he made it around his vehicle, both § 87(2)(b) and § 87(2)(b) were already in handcuffs. PO Koumniotes did not know why PO Dercio and PO Reilly handcuffed § 87(2)(b). PO Koumniotes approached but did not come closer than five to seven feet of the handcuffed individuals and did not have any verbal or physical interactions with them. He did not recall seeing § 87(2)(b) make any furtive movements or behave in a noncompliant manner. No individual requested PO Koumniotes's name or shield number. He never issued any orders or heard PO Reilly issue any. He did not recall there being any indication of § 87(2)(b) having a weapon.

When shown video file "2 Entry SB@0100 hrs," PO Koumniotes identified himself as the only officer standing in frame at 0104 hrs 10 seconds. When shown a second video, "2 Entry SB@0110 hrs," PO Koumniotes stated that he did not see § 87(2)(b) make any furtive movements other than putting his hands near his waist just prior to 0104 hrs 06 seconds.

### **Medical Records**

§ 87(2)(b) was seen at the § 87(2)(b) on § 87(2)(b). He had tenderness on his chest wall and was diagnosed with bilateral neuritis in his ulnar nerves. His left clavicle was mildly tender and mildly displaced. A chest x-ray was completely normal except for the presence of a metallic object in his left scapula. No other injuries are noted. On § 87(2)(b) he was seen at § 87(2)(b), where he was diagnosed with "contusion of multiple sites" (locations unspecified) and pain in his head. He had a history of a gunshot wound to his shoulder. At the time of his Dept. of Corrections physical exam on May 15, 2011, he did not have chest pain. There are no notations on any medical records regarding any evidence of significant trauma to § 87(2)(b)'s head (encl. 24A-25Q).

### **NYPD Documents**

#### **SPRINT**

A 23<sup>rd</sup> Precinct conditions sergeant (identified in PO Crevatas's memo book as Sgt. Jervis) verified the arrest of § 87(2)(b) over the radio at 1:13 a.m. (encl. 26A).

#### **Command Log and Prisoner Holding Pen Roster**

There is no § 87(2)(b) noted on either the Prisoner Holding Pen Roster. A comparison of the Command Log with the Prisoner Holding Pen Roster shows that § 87(2)(b) and § 87(2)(b) may have been in the holding cell area at approximately the same time as § 87(2)(b). § 87(2)(b)'s physical and mental condition was noted to be "good" in the command log (26F-K).

#### **Property Voucher**

The property voucher associated with § 87(2)(b)'s arrest notes that a black Blackberry phone was vouchered and that it was previously broken when § 87(2)(b) dropped it during a foot pursuit (encl. 26C).

### **Video Footage**

The investigation obtained a total of twenty minutes of video surveillance footage (all in color) from two different angles. This footage is divided into four video files, the contents of which are summarized below (encl. 6A-D).

The video file with the most inclusive angle – "2 Front Entry SB@0100" – depicts the front walkway of § 87(2)(b) in Manhattan from 1:00 a.m. to 1:10 a.m. on April 10, 2011, from the perspective of a camera that is mounted to the right of this walkway when one is facing the building. At the beginning of this video file, § 87(2)(b) who is wearing a conspicuously red jacket, can be seen standing immediately in front of § 87(2)(b) facing the street. About

three minutes and thirty seconds later, § 87(2)(b) who is wearing a black jacket with white sleeves, enters the frame, pursued by a marked police sedan as well as a uniformed officer, identified as PO Callinan, who is on foot. § 87(2)(b) is wearing a black jacket with white sleeves. There are no other civilians involved in the pursuit and no other officers in sight at this time. As § 87(2)(b) turns onto the walkway of § 87(2)(b) § 87(2)(b) he jumps, hands outstretched vertically, and continues toward § 87(2)(b) PO Callinan slows down to a walk, approaches § 87(2)(b) and follows him out of frame. § 87(2)(b) steps away from § 87(2)(b) and PO Callinan and remains standing at least five feet away, looking on, without moving his body or making any visible gestures. At this time, a marked police van pulls up in front of the building.

As PO Callinan and § 87(2)(b) move back into frame, PO Callinan is holding § 87(2)(b) s arm as § 87(2)(b) kneels down and then lays belly down on the ground. There are no strikes on camera. While this is happening, PO Kyle Crevatas exits the sedan and three officers, identified as PO Christopher Derco, PO Christopher Reilly and PO Theohari Koumniotes, exit the marked van. PO Crevetas moves immediately to § 87(2)(b) kneels, and places a hand on § 87(2)(b) s back. The other three officers approach § 87(2)(b) with PO Reilly in front. At 4 minutes 8 seconds, PO Reilly places a hand on § 87(2)(b) s back and appears to guide him off screen to the right. The view of § 87(2)(b) on the ground is occluded by a bush, a gate, and an unidentified officer's body at this time. PO Reilly and PO Derco move out of view with § 87(2)(b) as PO Koumniotes moves toward § 87(2)(b)

At 4 minutes 21 seconds, at least one officer who was previously near § 87(2)(b) stands up, revealing that § 87(2)(b) is lying on the ground. One of the officers then picks § 87(2)(b) up and escorts him to the police sedan that first pulled up. § 87(2)(b) appears to be already handcuffed by this time. Although there appears to be a brief struggle near the sedan, the details are indiscernible because of the glare from the sedan's flashing lights.

A second video file – “3 Front Entry SB@0100” – depicts the same time and location as “2 Front Entry SB@0100,” but from the opposite side of the walkway. This angle shows that, in order to apprehend § 87(2)(b) PO Callinan does nothing more than approach him, grab him and pull him to the ground, belly down, without striking him.

The other two video files depict the same location from 1:10 a.m. to 1:20 a.m. and do not contain information pertinent to the allegations.

### **Arrest for Incident and Disposition**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- As of July 19, 2012, no Notices of Claim have been filed with the City of New York with regard to this incident (encl. 28A).

### **Civilian Criminal Histories**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]



- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian CCRB Histories**

- This is the first CCRB complaint filed by [§ 87(2)(b)] (encl. 5A).
- [§ 87(2)(b)] is listed as either a complainant or a victim in the following CCRB complaints (encl. 5B):

- [§ 87(2)(b)]

### **Subject Officer CCRB Histories**

- PO Christopher Derco has been a member of the service for four years and there is one substantiated CCRB allegation against him:
  - In case 201003003, an allegation that PO Derco issued a retaliatory summons was substantiated and charges were recommended (encl. 4A).
- PO Christopher Reilly has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 4B).
- PO Kyle Crevatas has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 4C).
- PO Daniel Callinan has been a member of the service for four years and there are no substantiated CCRB allegations against him (encl. 4D).

### **Conclusion**

#### **Identification of Subject Officers**

- PO Callinan and PO Crevatas acknowledged interacting with [§ 87(2)(b)] and fit the descriptions he provided. [§ 87(2)(g)]
- [§ 87(2)(b)] initially alleged that PO Crevatas pointed a gun at his head while he was on the ground and stated that he should have shot him. However, he then attributed this same action to a third officer, who he described as a bald Hispanic male, and stated that PO Crevatas was not present at this time. All of the evidence indicates that there were no more than five officers on scene at this time: PO Crevatas, PO Callinan, PO Reilly, PO Derco and PO Koumniotes, none of whom are bald and only one of whom, PO Crevatas, is Hispanic. [§ 87(2)(g)]
- [§ 87(2)(b)] identified PO Reilly and PO Derco by name as the officers who stopped him and stated that they provided their names. PO Reilly and PO Derco confirmed that they stopped [§ 87(2)(b)] PO Derco volunteered during his interview that he frisked [§ 87(2)(b)] [§ 87(2)(g)]

### **Investigative Findings and Recommendations**

#### **Allegations Not Pled**

- [§ 87(2)(g)]

§ 87(2)(g)

• § 87(2)(g)

**Allegation A – Abuse of Authority: At the intersection of 102nd Street and 1st Avenue in Manhattan, PO Daniel Callinan stopped § 87(2)(b)**

**Allegation B – Abuse of Authority: At the intersection of 102nd Street and 1st Avenue in Manhattan, PO Daniel Callinan threatened § 87(2)(b) with the use of force.**

§ 87(2)(b) alleged that PO Callinan pulled his vehicle over next to him, accused him of drinking alcohol and then drew his firearm and threatened to shoot him if he moved. § 87(2)(b) further alleged that, when he consequently fled out of fear, PO Callinan chased after him while repeatedly threatening to shoot him. PO Callinan acknowledged that he ultimately pursued § 87(2)(b) on foot and stated that the following factors contributed to his decision to pursue § 87(2)(b): that he had observed § 87(2)(b) holding a beverage that appeared to be an illicit alcoholic street drink; that § 87(2)(b) took flight upon sight of PO Callinan, dropped an object while fleeing that made a loud noise when it hit the ground and was subsequently placed in his waistband, causing PO Callinan to suspect that § 87(2)(b) had a weapon. However, PO Callinan denied drawing his firearm or threatening to shoot § 87(2)(b) and testified that § 87(2)(b) began to flee before he had an opportunity to speak with him. Although PO Crevatas recalled PO Callinan attempting to get § 87(2)(b)'s attention prior to § 87(2)(b) fleeing, he denied seeing PO Callinan with his gun drawn, denied hearing PO Callinan threaten to shoot § 87(2)(b) and did not recall the specifics of what PO Callinan said when he exited his vehicle. PO Crevatas also corroborated PO Callinan's account of the object being dropped and added that it appeared to be black, which led him to suspect that it was a weapon.

§ 87(2)(g)

**Allegation C – Force: In front of § 87(2)(b) in Manhattan and inside the 23rd Precinct stationhouse, PO Daniel Callinan used physical force against § 87(2)(b)**

**Allegation D – Force: In front of § 87(2)(b) in Manhattan, PO Kyle Crevatas used physical force against § 87(2)(b)**

**Allegation E – Force: In front of § 87(2)(b) in Manhattan, PO Daniel Callinan struck § 87(2)(b) with a nightstick.**

§ 87(2)(b) alleged that, at the scene of his arrest, PO Callinan kned him in the back and punched him in the head while taking him to the ground, that PO Callinan and PO Crevatas both punched him while he was on the ground (in PO Callinan's case, multiple times), that PO Crevatas struck him in the head with a nightstick, that PO Crevatas dragged his face along the ground while pulling him up by his handcuffs, and that PO Callinan pushed § 87(2)(b) against the hood of the RMP and then kned him while placing him inside. He also alleged that, inside a private bathroom inside the stationhouse, PO Crevatas held him while PO Callinan punched him multiple times in the ribs. All officers deny that any of this force occurred.

Surveillance footage of the incident shows that PO Callinan did not knee or punch § 87(2)(b) before he was brought to the ground. § 87(2)(b) a friend of § 87(2)(b)'s who remained just feet away from him throughout his apprehension, denied that PO Callinan used any force against § 87(2)(b). None of the other civilian witnesses saw any force being used against § 87(2)(b). Though § 87(2)(b) alleged that both PO Callinan and PO Crevatas punched him while he was on the ground, he subsequently denied that PO Crevatas punched him and stated when filing his complaint that, as he was punched in the back of the head, he did not see which officer did this. He made conflicting statements regarding whether it was PO Callinan or PO Crevatas who dragged him on the ground. He also claimed that officers punched § 87(2)(b) multiple times in his ribs and kicked him twice, which § 87(2)(b) did not corroborate.

Although § 87(2)(b)'s medical records note contusions at unspecified locations on his body on § 87(2)(b) an x-ray taken at the § 87(2)(b) on § 87(2)(b) was normal and there are no notes regarding bruising on his body, which his account of the force used against him throughout the incident, including inside the stationhouse. There are no notations on any of his medical records regarding any significant trauma to his head, which is inconsistent with his claim that PO Crevatas struck him with a nightstick. Additionally, at Manhattan Detention Center on May 15, 2011, § 87(2)(b) denied that he had ever been physically assaulted § 87(2)(g) and stated that his last ER visit was in 1990, § 87(2)(g). While § 87(2)(b)'s arrest photo shows a mark on the right side of his face, it is impossible to tell whether this was a result of the incident. However, § 87(2)(b) stated that, when his face was scraped on the ground, he was looking toward § 87(2)(b) who was on his right. § 87(2)(g)

§ 87(2)(g)

**Allegation F – Offensive Language: In front of § 87(2)(b) in Manhattan and inside the 23rd Precinct stationhouse, PO Daniel Callinan made remarks to § 87(2)(b) based upon race.**

**Allegation G – Force: In front of § 87(2)(b) in Manhattan, an officer pointed his gun at § 87(2)(b)**

**Allegation H – Offensive Language: In front of § 87(2)(b) in Manhattan, an officer made remarks to § 87(2)(b) based upon race.**

**Allegation I – Abuse of Authority: In front of § 87(2)(b) in Manhattan, PO Daniel Callinan damaged § 87(2)(b)'s property.**

**Allegation J – Discourtesy: In front of § 87(2)(b) in Manhattan, PO Daniel Callinan spoke obscenely and/or rudely to § 87(2)(b)**

**Allegation N – Abuse of Authority: Inside the 23rd Precinct stationhouse, PO Kyle Crevatas did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) alleged that PO Callinan told him to “shut the fuck up,” repeatedly called him a “nigger,” “shine” and a “porch monkey,” used other unspecified racial epithets throughout the duration of his arrest and inside the stationhouse bathroom, and deliberately threw his phone to the ground, breaking it. He also claimed that a bald Hispanic male officer pointed a gun to his head and called him a “fucking nigger.” He further alleged that PO Crevatas refused to provide him with medical attention inside the 23rd Precinct stationhouse and told him to “shut the fuck up” when he requested it. (Although § 87(2)(b) stated that the officer who cursed at him inside the stationhouse and refused to provide him with medical attention was the same officer who initially brought him to the ground, struck him while calling him a “nigger” and drove PO Crevatas’s RMP, his statement clearly indicates that it was PO Callinan who performed all of these actions.) All officers involved denied these allegations.

§ 87(2)(b) expressly denied hearing officers use any racial epithets and confirmed that he was within earshot of § 87(2)(b) for the duration of his apprehension. Although there were no civilian witnesses to the language allegedly used inside the stationhouse, § 87(2)(b) claimed that PO Callinan used the same racial epithets inside the stationhouse that he had used earlier. Consequently, the reliability of § 87(2)(b)'s statements regarding the language allegedly used at both locations is limited. § 87(2)(b) also stated that he did not hear the other profane statements alleged by § 87(2)(b). None of the civilian witnesses corroborated that the alleged statements were made.

§ 87(2)(g) He initially attributed these actions to PO Crevatas, but subsequently stated that it was another officer who did this and added that this officer called him a “nigger.” He described this officer as a bald Hispanic male. However, as noted above, all of the evidence indicates that there were no more than five officers on scene at this time, none of whom were bald and only one of whom, PO Crevatas, is Hispanic. Although § 87(2)(b) stated that she saw an officer point a gun at § 87(2)(b), she was intoxicated at the time of the incident and was completely unable to describe the officer who did this.

Regarding the allegation that PO Callinan damaged § 87(2)(b)'s phone, § 87(2)(b) acknowledged that he dropped his phone to the ground prior to the point at which the officers assumed custody of it. § 87(2)(b)'s property voucher notes that § 87(2)(b)'s black Blackberry phone was broken during a foot pursuit, which is consistent with the officers’ testimonies. No other civilian corroborated that any officer threw § 87(2)(b)'s phone to the ground. § 87(2)(g)

Finally, although § 87(2)(b) alleged that PO Callinan refused to provide him with medical attention inside the 23rd Precinct stationhouse, he initially attributed this refusal to PO Crevatas when filing his complaint.

§ 87(2)(g)

**Allegation K – Abuse of Authority: In front of § 87(2)(b) in Manhattan, PO Christopher Reilly stopped § 87(2)(b)**

**Allegation L – Abuse of Authority: In front of § 87(2)(b) in Manhattan, PO Christopher Derco stopped § 87(2)(b)**

**Allegation M – Abuse of Authority: In front of § 87(2)(b) in Manhattan, PO Christopher Derco frisked § 87(2)(b)**

PO Reilly and PO Derco both acknowledged that they stopped § 87(2)(b) PO Derco admitted to frisking § 87(2)(b)

According to PO Derco's independent recollection, the following factors contributed to his decision to stop § 87(2)(b) he had just observed two individuals running alongside an RMP, apparently involved in a police pursuit; one of these individuals was wearing a red jacket and the other was wearing a dark jacket, and PO Derco could not discern if either was a police officer; though PO Derco temporarily lost sight of these individuals during the pursuit, he saw the individual in the red jacket being apprehended by PO Callinan in front of the entrance to § 87(2)(b) § 87(2)(b) where § 87(2)(b) who was dressed in a dark jacket, was standing; at some point prior to encountering § 87(2)(b) PO Derco heard someone say, "Gun!" but could not tell who was saying this. After being allowed to examine the Stop, Question and Frisk Report for the stop of § 87(2)(b) PO Derco also mentioned the following factors: § 87(2)(b) had made "furtive movements" by reaching toward his waistband; § 87(2)(b) had refused to comply with directions to show his hands; the incident location had a high incidence of weapons possession. PO Derco cited § 87(2)(b)'s gesture toward his waistband as the factor that prompted him to frisk § 87(2)(b) § 87(2)(b)

PO Reilly, who filled out the Stop, Question and Frisk Report in question, generally corroborated PO Derco's testimony, with the following exceptions: PO Reilly claimed to have seen a uniformed officer chasing both a male in a dark jacket and a male in the red jacket; he could tell that it was PO Crevatas who yelled, "Gun!" though he did not know who PO Crevatas was referring to; § 87(2)(b) was standing within feet of PO Callinan and PO Crevatas while they were handcuffing § 87(2)(b) which caused PO Reilly concern for their safety; § 87(2)(b) was "disheveled" and moving from side to side; the incident occurred at night time, which is a time of increased criminal activity. PO Reilly could not explain why "criminal possession of a controlled substance" was on the Stop, Question and Frisk Report as a crime that § 87(2)(b) was suspected of. PO Derco and PO Reilly both acknowledged that they ultimately discovered that their stop of § 87(2)(b) had been a mistake when PO Callinan approached them and informed them of this.

§ 87(2)(g) § 87(2)(b) was the only civilian who was involved in the foot pursuit. PO Callinan, PO Crevatas and PO Koumniotes all testified to this, and it is further confirmed by surveillance footage. This footage also shows that § 87(2)(b) was wearing a jacket with white sleeves and a black back and that § 87(2)(b) who remained standing outside of his building up until the time at which he was stopped, was wearing a conspicuously red jacket. Regarding PO Reilly and PO Derco's assertion that they heard the word "gun," PO Derco could not tell who said this, PO Reilly could not tell who it was in reference to, and both officers acknowledged that they heard it before they encountered § 87(2)(b)

Surveillance footage shows that, as § 87(2)(b) approached § 87(2)(b) slowly stepped away from § 87(2)(b) without making any gestures and did not attempt to approach § 87(2)(b) § 87(2)(b) Upon viewing this footage, PO Reilly acknowledged that no "furtive" gestures are visible, and PO Callinan, PO Crevatas and PO Koumniotes all denied seeing § 87(2)(b) behaving

in a furtive manner at any time. PO Reilly also initially denied that § 87(2)(b) was doing anything in particular with his body at the time of his stop.

According to Section 140.50(1) of NYS Criminal Procedure Law (encl. 1A-2A), as per the standard set forth in People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 3A-M), an officer may stop a person only when he or she reasonably suspects that person of a crime. DeBour also establishes that innocuous behavior alone provide an officer with reasonable suspicion. According to Section 140.50(3) of NYS Criminal Procedure Law (encl. 1A-2A), an officer may frisk a person for a weapon when, during a stop, he has a reasonable suspicion that that person is armed.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

